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November 28, 2005

## **VIA ELECTRONIC FILING**

Ms. Marlene Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

Re: WC Docket No. 05-196  
Compliance Report of ICG Telecom Group, Inc.  
And Limited Request for Waiver of Rules Governing  
Interconnected Voice over the Internet Protocol E-911  
Requirements (Codified at 47 C.F.R. §§ 9.1 through 9.5)

Dear Ms. Dortch:

By this letter, ICG Telecom Group, Inc. (ICG), through counsel, hereby submits its report to the Commission on its efforts to date to achieve compliance with the rules governing interconnected Voice over the Internet Protocol (VoIP) service. As will be described herein, ICG has undertaken significant efforts to comply with the letter and the spirit of the VoIP E-911 requirements. However, complete compliance as of this date is not possible for ICG as it is not possible for other VoIP providers. Accordingly, by this letter, ICG hereby requests a limited waiver of the E-911 requirements for six months so that ICG may continue to market and grow its VoIP service while working with its vendors to achieve full compliance with the applicable rules.

### **I. Compliance Report**

At the outset, ICG notes that it is committed to the complete implementation of E911 access for its VoicePipe™ (VoIP) service at the earliest practicable moment. As it has indicated in its subscriber notification and acknowledgement reports submitted to the

ALBANY  
AMSTERDAM  
ATLANTA  
BOCA RATON  
BOSTON  
CHICAGO  
DALLAS  
DELAWARE  
DENVER  
FORT LAUDERDALE  
HOUSTON  
LAS VEGAS  
LOS ANGELES  
MIAMI  
NEW JERSEY  
NEW YORK  
ORANGE COUNTY, CA  
ORLANDO  
SILICON VALLEY  
PHILADELPHIA  
PHOENIX  
TALLAHASSEE  
TOKYO  
TYSONS CORNER  
WASHINGTON, D.C.  
WEST PALM BEACH  
ZURICH

Commission, ICG has complied with the notification and warning sticker requirements established by the Commission and has obtained 100% customer response. More importantly, it has contracted with leading providers of E911 support technology, New Global Telecom, Inc. ("NGT") and Intrado, Inc. ("Intrado") and hopes to be one hundred percent compliant within the next six months. Given the current limitations on the availability of fully compliant E911 products and services, ICG believes that it is as close to fully compliant on November 28, 2005 as is commercially possible.

ICG will utilize NGT's "SafeCall® E-911 Service" which primarily utilizes Intrado's network capabilities, but will also utilize services provided by other Emergency Service Gateway Providers (ESGWs) to provide a compliant E-911 service for VoIP 911 calls. NGT will be able to provide ICG with SafeCall® E-911 services to facilitate fully compliant E-911 connectivity to those PSAPs where NGT via its underlying providers have the necessary access to the PSAPs. The Public Notice requires information regarding the percentage of the provider's end-user subscribers to whom the provider is able to provide 911 service in compliance with the rules established in the *Order*. As of November 28, 2005, ICG expects to have fully compliant E-911 service available for approximately 85% of current VoIP end-users, increasing to approximately 100% coverage of those current VoIP end-users by the end of April 2006.

**a. 911 Routing Information/Connectivity to Wireline E-911 Network.**

The *Public Notice* requires a statement as to whether the provider is transmitting 911 calls to the appropriate PSAP (or other appropriate destinations) using the Selective Router, the trunk lines between the Selective Router and the PSAP, and such other elements of the Wireline E911 Network as are necessary. ICG will be able to provide its customers with NGT SafeCall® E-911 services to facilitate fully compliant E-911 connectivity to those PSAPs where NGT via its underlying providers has the necessary access to the PSAPs.

ICG understands that NGT expects that over 99% of the VoIP-originated 911 calls over NGT's SafeCall® E-911 Service within NGT's E-911 coverage area ("Coverage Area") are transmitted via the appropriate Selective Routers and other components of the Wireline E-911 Network (the remaining VoIP-originated 911 calls are transmitted via the PSTN using SafeCall® Operator-Assisted 911 Service due to limitations in PSAP capabilities). The rate centers and MSAs comprising NGT's initial Coverage Area, as of November 28, 2005, are listed in Attachment A to this letter. NGT's efforts with regard to geographic areas outside its initial Coverage Area are discussed below.

The *Public Notice* also directs providers to quantify the number of Selective Routers to which it has interconnected, directly or indirectly, as of November 28, 2005. As of that date, ICG understands that NGT is interconnected with 150 Selective Routers and 2500 PSAPs, via its relationships with Intrado and other ESGWs.

**b. Transmission of ANI and Registered Location Information.**

The *Public Notice* also requires detailed information on whether the provider is transmitting the 911 callers' ANI and Registered Locations to all answering points that are capable of receiving and processing this information. In order to implement SafeCall® E-911 Service, NGT and its service provider customers are making the utmost effort to obtain and validate Registered Locations for every existing end-user VoIP subscriber. ICG has sent notifications to its VoIP subscribers that have Registered Locations within the Initial E-911 Coverage Area and have SafeCall® E-911. As required by the *Order*, all 911 calls from those subscribers will then be routed either via Selective Routers over dedicated lines or via the PSTN directly (for those PSAPs not utilizing 911 Selective Routers) to the appropriate PSAP for the subscriber's Registered Location along with the call-back number and location information (to the extent that the PSAP is capable of receiving and utilizing location information). NGT's efforts to obtain Registered Location information are discussed below.

The FCC also requested the following: (i) the percentage of PSAPs capable of receiving and processing ANI and Registered Location information; (ii) the percentage of end-user subscribers whose ANI and Registered Location are being transmitted when they place E-911 calls; and (iii) an explanation of why the provider is not transmitting the 911 caller's ANI and Registered Location to all PSAPs that are capable of receiving and utilizing location information, to the extent it is not able to do so. In response, NGT submits as follows:

- Item (i): ICG respectfully submits that it lacks the information needed to respond because, as noted above, ICG depends on the NGT SafeCall® E-911 service which depend on Intrado and other ESGWs for connectivity to Selective Routers, and does not have direct information regarding the percentage of PSAPs that are capable of receiving and processing ANI and Registered Location information.
- Item (ii): ICG respectfully submits that it lacks the information needed to respond because ICG depends on the NGT SafeCall® E-911 service which depends on Intrado and other ESGWs for connectivity to Selective Routers, and does not have direct information regarding the percentage of PSAPs that are capable of receiving and processing ANI and Registered Location information. However, as stated above, as of November 28, 2005, ICG expects to have fully compliant E-911 service available for approximately 85% of its current VoIP subscribers and expects that over 99% of the VoIP-originated 911 calls over NGT's SafeCall® E-911 Service within the Coverage Area are transmitted via the appropriate Selective Routers and other components of the Wireline E-911 Network (the remaining VoIP-originated 911 calls are transmitted via the PSTN using SafeCall® Operator-Assisted 911 Service due to limitations in PSAP capabilities).

Item (iii): As of November 28, 2005, ICG understands that NGT's SafeCall® E-911 Service is transmitting the 911 caller's ANI and Registered Location to all PSAPs in its Coverage Area that are capable of receiving and utilizing location information. ICG's, and in particular its underlying vendors', efforts to expand its Coverage Area are discussed above.

c. **911 Coverage.**

The *Public Notice* also requires the submission of information regarding the areas in which the provider is in full compliance with the *Order* and where it is not, as well as its plans for coming into full compliance, including its anticipated timeframes.

As of November 28, 2005, ICG, via NGT's SafeCall® E-911 Service, is able to provide fully-compliant SafeCall® E-911 Service in 2,081 rate centers in 31 markets. The specific rate centers are listed in Attachment A to this letter. This converts into being interconnected to 150 Selective Routers and 2500 PSAPs, most of which are capable of receiving ANI and Registered Location information. By January 2006, NGT expects to be interconnected to an additional 30 Selective Routers and 1000 PSAPs for an additional 1,781 rate centers in 20 additional markets. By March 2006, this coverage is expected to increase to a total of 250 Selective Routers and 4000 PSAPs, and 400 Selective Routers by June 2006. In terms of population, ICG shall be able to make available fully compliant SafeCall® E-911 Service in areas covering 60% of the population as of November 28, 2005. The remaining coverage area is being prioritized with the expected roll-out to 70% coverage of the domestic US population by end of the year and between 80-85% coverage by the end of June 2006.

ICG fully realizes the importance and necessity to expand the Coverage Area for its SafeCall® E-911 Service and will work with its vendors to expand coverage.

2. **Obtaining Initial Registered Location Information**

On July 8, 2005, ICG sent via first class mail a notice to all its VoicePipe™ customers and received 100% acknowledgement (either directly or after manual intervention/follow-up) details concerning the capabilities and unique characteristics of ICG VoicePipe service and 911 service.

Prior to commencing VoIP service to any prospective subscriber, the subscriber is required to provide ICG with its Registered Location (as that term is defined at Section 9.3 of the Commission's Rules). All customers of ICG's VoIP service who had become customers prior to issuance of the Commission's VoIP E911 Order (IP-Enabled Service and E911 Requirements for IP-Enabled Services, FCC 05-116, released June 3, 2005), were contacted in writing and telephonically on or about November 18, 2005 and were requested to provide their Registered Locations. ICG is pleased to report that, as a result of these efforts, it has Registered Location information for 100% of its VoIP customers. All registered location data (including updates and corrections) has been loaded into the NGT/Intrado database.

3. Updated Registered Location Information

ICG has notified all VoIP customers of the importance of providing updated Registration Location information whenever customers change their Registered Locations. ICG's customers can update their registered locations by calling a toll-free number 24x7 (888-424-4611). However, actual updates will only take place during the business hours of 6:00am and 6:00pm MST Monday through Friday (excluding major holidays). The customer may call from any location/device but must have his or her TN, existing and new location information and TN-specific PIN to make an update

4. Technical Solution for Nomadic Subscribers

ICG's VoIP subscribers have the ability to update their Registered Locations, and if they provide new Registered Locations within the Coverage Area for NGT's SafeCall® E-911 Service, they will have access to E-911 functionality that is fully compliant with the *Order*. However, if end-user subscribers update their Registered Locations to domestic U.S. locations outside such Coverage Area, ICG will suspend Voice Services, but an alternative form of 911 service is available. ICG will leverage NGT's SafeCall® Operator Assisted 911 Service – in which 911 calls include the call-back number and the actual Registered Location that a subscriber has provided. More specifically, 911 calls placed by subscribers with Registered Locations within the United States, but outside the geographic area where ICG's provider has deployed fully-compliant E-911 service, would be routed to an emergency call response center ("ECRC"). The ECRC would have operators standing by 7 days a week, 24 hours a day, with access to the subscriber's Registered Location and call back number. The ECRC would then provide a "soft transfer" of the 911 call to the appropriate 911 dispatcher or, potentially, to a local exchange telephone line of the geographically appropriate PSAP. The ECRC could then communicate the Registered Location and call back number prior to transferring the actual call, in case the caller cannot. ICG will send notifications to its customers that have Registered Locations outside of the Initial E-911 Coverage Area and have SafeCall® Operator Assisted 911 Service.

ICG currently does not have an automatic detection mechanism to identify when a customer may have moved his or her interconnected VoIP service to a new location.

**II. Request for Waiver**

As described in the compliance plan above, ICG has made significant efforts to achieve compliance with the letter and the spirit of the Commission's E911 access requirements for interconnected VoIP service. Despite those efforts, full compliance with the requirements by November 28, 2005 will not be possible. Based upon the efforts of some providers to have the Commission's rules partially stayed, as well as requests for waiver filed by other providers (*see, e.g., Request of RNK, Inc. d/b/a RNK Telecom for a Limited Waiver, filed November 3, 2005*), it appears that the inability of VoIP providers to meet the November 28 compliance date is an

industry-wide phenomenon. For that reason, and in light of ICG's efforts to date, as well as its continuing efforts to fulfill the E911 requirements, it respectfully requests a waiver to afford it an additional six month period (*i.e.*, until May 28, 2006) to fully meet these requirements.

ICG does not make this request lightly. It recognizes that properly-enacted Commission rules are presumed valid and in the public interest. However, as the Commission's rules expressly acknowledge (see: 47 C.F.R. § 1.3) special circumstances occasionally exist which warrant deviation from the rules. WAIT Radio v. FCC, 418 F.2d 1153 (D.C. Cir. 1969); Northeast Cellular Telephone Company, 897 F.2d 1164 (D.C. Cir. 1990). Such circumstances exist in the instant situation.

ICG has contracted with major vendors of E911 support services. Those vendors are currently able to transmit 10 digit telephone number information and Registered Location information to PSAPs in many of the markets in Colorado and Ohio served by ICG, but not all of those markets. Until such time as the information can be delivered to the remaining markets, ICG will be able to provide 911 access, but not E911 access. ICG recognizes that E911 technology, where available, provides customers with a very high level of emergency assistance. While not as desirous as E911, 911 does enable customers facing emergency situations to reach a PSAP attendant and orally deliver location information. As the Commission itself, as well as others, have noted, VoIP technology offers consumers a new world of features and functionalities not historically available with circuit switched telecommunications service. As a pioneer in VoIP offerings, ICG is enthusiastic about the benefits its service brings to its customers.

S. 1063 -- the IP-Enabled Voice Communications and Public Safety Act of 2005 -- has been introduced and already has been marked up by the Senate Committee on Commerce, Science and Transportation. S. 1063, if enacted, would direct the Commission to revise the E911 access regulations promulgated in the VoIP E911 Order to include an appropriate transition period based on 1) available industry technology and operational standards; 2) network security; and 3) PSAP capabilities. With particular respect to marketing VoIP service to new subscribers pending full compliance with the E911 access requirements, S. 1063 would direct the Commission to waive the 911 and E-911 requirements upon showings the service provider has given clear and conspicuous notice to subscribers regarding the unavailability of 911 and E911 access; acknowledgements from subscribers; and that fully compliance is not technically and operationally feasible.

In a recent letter to Chairman Martin, Senate Commerce Committee Chairman Ted Stevens (R-AK) and ten of his colleagues indicated their belief that S. 1063 would be enacted into law, albeit not by November 28, and urged the Commission to shape its VoIP E911 policies based on the legislation. By this waiver request, ICG respectfully urges the Commission to grant the waiver so as to allow ICG to continue to deploy VoIP service to new subscribers for a reasonable period following November 28 to allow the legislative process surrounding S. 1063 to run its course, and to afford ICG and its E911 support vendors a reasonable period to continue to develop and implement the technological solutions which will make it possible for

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ICG to provide ubiquitously available E911 service throughout its service area. Based upon consultation with those vendors, ICG is confident that these objectives can be achieved within the six month waiver period requested herein.

As the United States Court of Appeals stated nearly a quarter century ago, “[t]he best may not become the enemy of the good.” (MCI Telecommunications Corporation v. FCC, 627 F.2d 322, 341 (D.C. Cir. 1980)). It would be an unfortunate result if the Commission’s well-intended efforts to move the IP-enabled services industry toward comprehensive and ubiquitous availability of E911 had the perverse effect of retarding the introduction and expansion of competitively-provided, innovative, feature rich VoIP services solely because short-term technical limitations impeded the completion of the E911 implementation process by November 28, 2005. The short-term and limited waiver requested herein by ICG will avoid that result by allowing ICG to continue to provide VoIP service and to market to new customers during the next several months as it and its vendors work diligently to implement a complete E911 solution.

Respectfully submitted



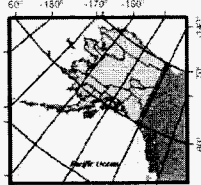
Mitchell F. Brecher  
*Counsel for ICG Telecom Group, Inc.*

cc: Ms. Kathy Berthot  
Ms. Janice Myles

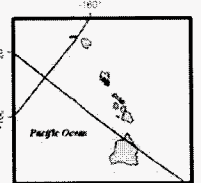
## **ATTACHMENT A**



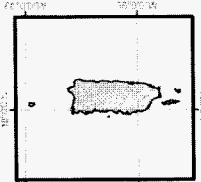
## Alaska



## Hawaii

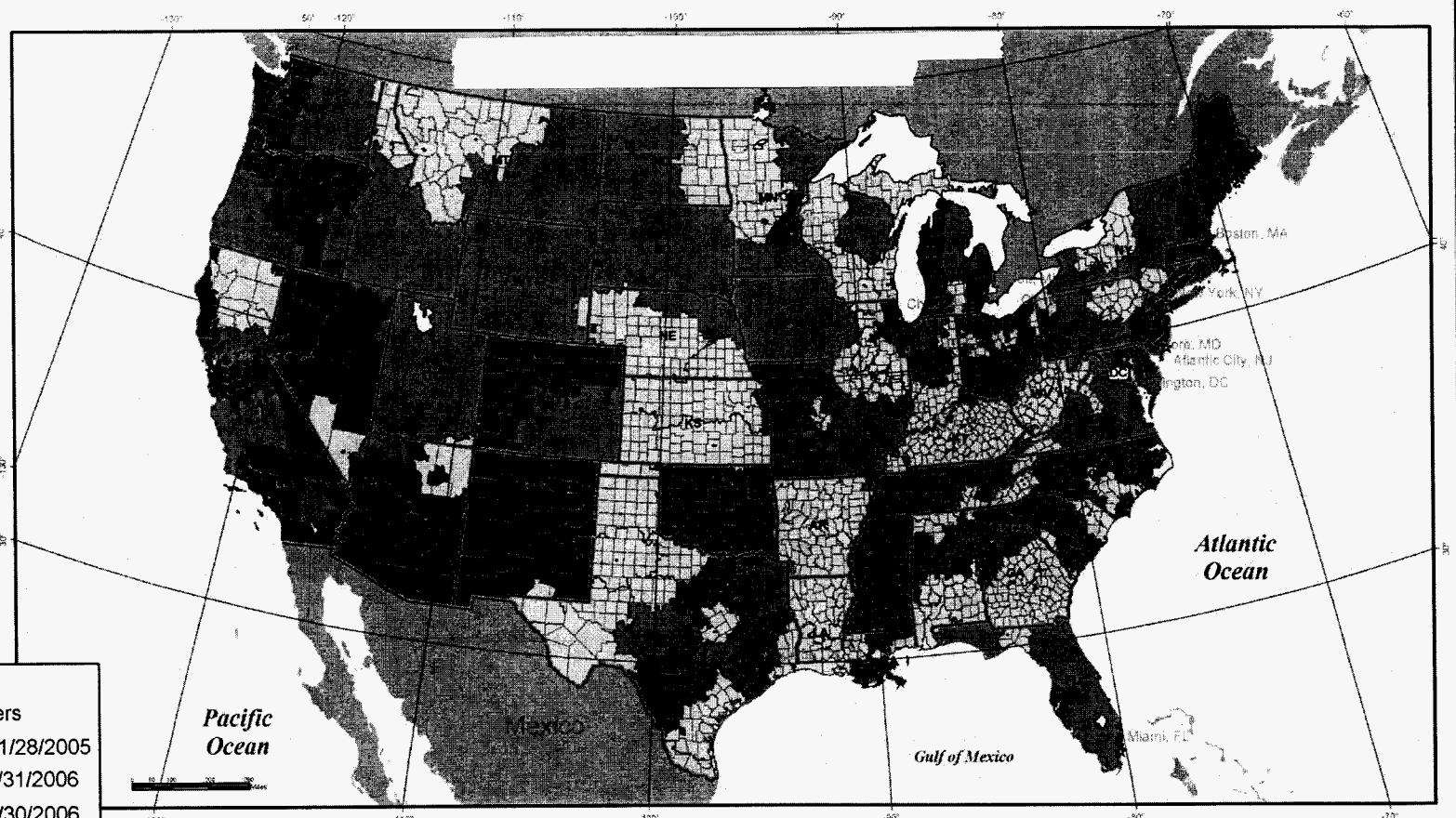


## Puerto Rico



### Legend

- NGT Customers
- Planned for 11/28/2005
- Planned for 3/31/2006
- Planned for 6/30/2006
- County Boundary
- ★ or ▨ Top 20 MSAs
- Lakes



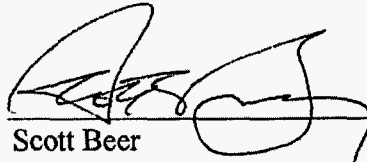
WOS GIS Operations Team  
 Date: November 2005  
 Data Source: Maridian, Geodis, IPS, ESRI Data  
 Created in ArcGIS 8 using ArcMap

for SafeCall coverage as of November 28th, and planned expansion in 2006.

Nov-05	Dec-05	Q106	Q206	Q306
New York, NY	Denver, CO	Rochester, NY	Louisville, KY	Honolulu, HI
Los Angeles-Long Beach, CA	Pittsburgh, PA	Omaha, NE	Charleston-North Charleston, SC	San Juan, PR
Orange County, CA	Scranton-Wilkes-Barre, PA	Nassau-Suffolk, NY	McAllen-Edinburgh-Mission, TX	
San Francisco, CA	Providence-Fall River-Warwick, RI	Albany-Schenectady-Troy, NY	El Paso, TX	
San Jose, CA	San Antonio, TX	Buffalo-Niagara Falls, NY	Milwaukee-Waukesha, WI	
Hartford, CT	Austin-San Marcos, TX	Syracuse, NY	Wichita, KS	
New Haven-Meriden, CT	Birmingham, AL	Harrisburg-Lebanon-Carlisle, PA		
Washington, DC	Mobile, AL	Norfolk-Virginia Beach-, VA		
Wilmington-Newark, DE	Phoenix-Mesa, AZ	Richmond-Petersburg, VA		
Chicago, IL	Tucson, AZ	Indianapolis, IN		
Boston, MA	Tampa-St. Petersburg, FL			
Springfield, MA	Orlando, FL			
Newark, NJ	Jacksonville, FL			
Bergen-Passaic, NJ	Sarasota-Bradenton, FL			
Jersey City, NJ	Gary, IN			
Monmouth-Ocean, NJ	Grand Rapids-Muskegon, MI			
Philadelphia, PA	Charlotte-Gastonia-Rock Hill, NC			
Allentown-Bethlehem-Easton, PA	Greensboro-Winston-Salem, NC			
Houston, TX	Raleigh-Durham-Chapel Hill, NC			
Dallas, TX	Albuquerque, NM			
Miami, FL	Las Vegas, NV			
Fort Lauderdale, FL	Cincinnati, OH			
West Palm Beach-Boca Raton, FL	Columbus, OH			
Atlanta, GA	Dayton-Springfield, OH			
Detroit, MI	Toledo, OH			
Ann Arbor, MI	Youngstown-Warren, OH			
Minneapolis-St. Paul, MN	Akron, OH			
Cleveland-Lorain-Elyria, OH	Portland, OR			
Seattle-Bellevue-Everett, WA	Nashville, TN			
Tacoma, WA	Memphis, TN			
Riverside-San Bernardino, CA	Knoxville, TN			
	Salt Lake City-Ogden, UT			
	Little Rock-North Little Rock, AR			
	New Orleans, LA			
	Baton Rouge, LA			
	St. Louis, MO			
	Kansas City, MO			
	Tulsa, OK			
	Oklahoma City, OK			
	Greenville-Spartanburg, SC			
	Columbia, SC			
	Oakland, CA			
	Ventura, CA			
	San Diego, CA			
	Sacramento, CA			
	Bakersfield, CA			
	Stockton-Lodi, CA			
	Fresno, CA			
	Baltimore, MD			
	Middlesex-Somerset, NJ			
	Fort Worth-Arlington, TX			

## DECLARATION

I, Scott Beer, state that I am Vice President and General Counsel, ICG Telecom Group, Inc. (ICG); that I am authorized to submit the foregoing Compliance Report and Limited Request for Waiver of Rules Governing Interconnected Voice over the Internet Protocol E-911 Requirements on behalf of ICG; that the Compliance Report and Limited Waiver Request was prepared under my direction and supervision; and I declare under penalty of perjury that the information contained therein is true and correct to the best of my knowledge, information and belief.

A handwritten signature in black ink, appearing to read 'Scott Beer', is written over a horizontal line.

Name: Scott Beer

Title: Vice President and General Counsel  
ICG Telecom Group, Inc.